

Small Business Economic Impact Statement
for Rule Concerning Water Recreation Facilities,
WAC 246-260

1. Briefly describe the proposed rule.

The rule governs design, construction and operation of water recreation facilities regulated in Washington State. It applies to swimming pools, spas, wading pools, spray pools and public bathing beaches. The rule was last revised in 1992.

The regulations for water recreation facilities covered in WAC 246-260 are to ensure a healthy and safe environment for the users of facilities at 4000 plus regulated pool facilities in Washington state. This program is administered jointly by the state and local health jurisdictions.

2. Is a Small Business Economic Impact Statement (SBEIS) required for this rule?

Yes.

3. Which industries are affected by this rule?

SIC Code	Description	Average employment for small businesses	Average employment for the largest 10% of businesses
7011	Hotels and Motels	9	110
7991	Physical Fitness Facilities	12	50
7997	Membership Sports and Recreation Clubs	10	69
7999	Amusement and Recreation Services, Not Elsewhere Classified	10	69

4. What are the costs of complying with this rule for small businesses (those with 50 or fewer employees) and for the largest 10% of businesses affected?

Detailed cost estimates can be found in the accompanying Significant Analysis document. They indicate the following estimated costs of compliance:

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Rule Component	Estimated Cost (Small Facility)	Estimated Cost (Large Facility)
Lifeguard requirement	Min: Cost savings Max: \$40,000/year	Min: Cost savings Max: \$70,000/year
Barriers	Min: \$0 Max: \$5,000 (one-time)	Min: \$0 Max: \$17,500 (one-time)
Innovative design	Cost savings	Same
Main Drains	Minor	Same
Skimmer Line Drain Grate Protection	Minor	Same
Spa Pools—Equipment Rooms	Min: Cost savings Max: \$600 (one-time)	Same
Ton Chlorine Cylinders	Minor	Same
Lockers	Min: \$0 Max: \$250 (one-time)	Same
Self-Closing Faucets	Minor	Same
Showers	Cost savings	Same
Diaper Changing Stations	Min: \$0 Max: \$500 (one-time)	Same
Lighting	Minor	Same
Diving Boards	Significant cost savings	Same
Starting Blocks	Cost savings	Same
Emergency Phone	Minor	Same
Spa Pools—Perimeter Requirements	Minor	Same
Spa Pools—Decking	\$0	Same
Spa Pools—Setback from Raised Structures	Cost savings	Same
Spa Pools—At Transient Accommodation Facilities	Cost savings	Same
Spa Pools—In Individual Rooms of Hotels, etc.	Cost savings	Same
Wading Pools	Cost savings	Same
Recirculating Spray Pools	Cost savings	Same
Spray Pools—Maximum Velocity	Minor	Same
Spray Pools—Bathrooms, etc.	\$0	Same
Spray Pools—Walkway	Min: \$0 Max: \$1,000 (one-time)	Same
Emergency equipment requirements	Min: \$0 Max: \$600 (one-time)	Same
Specialty Design Features	Cost savings	Same
Water Quality—Ozone and Copper Silver	Minor	Same

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Water Quality—Minimum and Maximum Disinfectant Levels	Minor	Same
Water Quality—Testing Equipment	Minor	Same
Water Quality—And Air Quality	Minor	Same
Water Recreation Facilities—Not in Operation	Cost savings	Same
Water Recreation Facilities—Abandoned	Cost savings	Same
Water Recreation Facilities—Variances	Cost savings	Same
Water Recreation Facilities—Enforcement	Min: Cost savings Max: \$300	Same

5. Does the rule impose a disproportionate impact on small businesses?

Yes: the rule components in the list above that involve expenditures are likely to impose a disproportionate cost on small businesses. Although costs for some of these components (notably lifeguarding and barriers) will be higher for larger businesses, the fixed-cost nature of many of these items suggests that costs will be disproportionate for small businesses. Larger businesses, in other words, will be able to spread the costs out among a larger volume of sales (or a larger number of employees).

6. If the rule imposes a disproportionate impact on small businesses, what efforts were taken to reduce that impact (or why is it not “legal and feasible” to do so) by

a) reducing, modifying, or eliminating substantive regulatory requirements?

For lifeguarding requirements for private clubs, mitigating efforts include allowing a lower level of training for lifeguarding in shallow waters. There is also an allowance to only have an attendant, rather than a lifeguard.

The requirement for the emergency shut-off switch and audible alarm for single main drain swimming pools, wading pools and recirculating spray pools represents the least costly alternative for improving protection with single main drain pools.

With regard to the final proposal, it is not feasible to reduce, modify, or eliminate substantive regulatory requirements because of their importance for public health: small

facilities need emergency alarms for the same reason that large facilities need them. However, the variance process does provide some flexibility in exceptional circumstances. This process may prove useful, for example, for owners of small spa pools who can demonstrate that they have sufficient access to equipment and do not need an equipment room.

b) simplifying, reducing, or eliminating record keeping and reporting requirements?

Monitoring requirements have been simplified and some have been removed including a requirement to monitor all hazardous equipment and produce a daily estimate of the number of users. Water quality monitoring requirements have simplified minimum residuals with a wider range of disinfectant allowed in swimming pools and wading pools.

c) reducing the frequency of inspections?

Inspection frequency is determined by local health jurisdictions, which are currently responsible for operating permits.

d) delaying compliance timetables?

The sections of the regulation dealing with significant financial impact (barriers and emergency shut-off switches for single main drain pools) delay compliance until June of 2008.

e) reducing or modifying fine schedules for noncompliance?

The civil penalty provisions in the regulations have been used infrequently: DOH has not used them to date, and local health jurisdictions have only used them when a pool poses an imminent hazard, e.g., because of lack of adequate barrier protection or lack of disinfection. In general, these fines have been eliminated when compliance is achieved.

f) any other mitigation techniques?

Other mitigation techniques include:

- Removing 15-foot setback requirement for second floor balconies, etc, for spa and wading pools.
- Providing skimmer outlets with a wider range for operation, making placement simpler.
- Simplifying details for sizing for equipment rooms by removing the minimum square foot requirement. For spas at transient accommodations serving fewer than 15 living units, the equipment room requirement has been removed.
- Relaxing the details for filtration and deferring to third parties for application rates for filters.
- Reducing or eliminating many lighting level requirements.

- Reducing emergency equipment requirements, including the size of first-aid kits and number of blankets; the requirement for reaching poles has been changed to apply only to non-lifeguarded pools.
- Reducing spa pool requirements for smaller motel/hotel/B&Bs serving fewer than 15 living units.
- Removing the requirement that recirculating spray pools be attached to a 30,000+ gallon swimming pool.
- Providing facilities that are abandoned with the option of installing a safety cover rather than filling in the pool.
- Changing the variance process to require approval by either the state or the local health agency, but not both.

7. How are small businesses involved in the development of this rule?

A manager of a private athletic club sat on the task force that helped develop these regulations; this individual represented the views of private athletic clubs around the state, especially on the issue of lifeguard requirements for private clubs.

Other small business owner groups, including those representing hotel and motel associations and mobile home park owners, participated in the committee. Others, including apartment owners and condominium owners, were invited to attend but chose not to participate.